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AS

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/362,631 07/21/99 MOSSO

R N19.12-0020

IM22/0130
WESTMAN CHAMPLIN & KELLY P A
INTERNATIONAL CENTRE
900 SECOND AVENUE SOUTH
SUITE 1600
MINNEAPOLIS MN 55402-3319

EXAMINER

MAYEKAR, K

ART UNIT	PAPER NUMBER
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1741

DATE MAILED:

01/30/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

Office Action Summary

Application No.
09/362,631

Applicant(s)
Mosso et al.

Examiner
Kishor Mayekar

Group Art Unit
1741



☒ Responsive to communication(s) filed on Sep 13, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire one month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-14, 20-27, and 42-51 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 1-14, 20-27, and 42-51 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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Election/Restriction

1. Applicant's election without traverse of invention of Group I, claims 1-14, 20-27 and 42-51 in Paper No. 4 is acknowledged. However, upon reviewing the remaining claims in the application, the Examiner would like to restrict the remaining claims 1-14, 20-27 and 42-51 as set in the following paragraphs.

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-8 and 45, drawn to a particle production apparatus, classified in class , subclass .
- II. Claims 9-14, drawn to a particle production apparatus, classified in class 422, subclass 186+.
- III. Claims 20-27, drawn to a particle production apparatus, classified in class 422, subclass 186+.
- IV. Claims 42-44, drawn to a particle production apparatus, classified in class 422, subclass 186+.

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V. Claims 46-50, drawn to a particle production system, classified in class 422, subclass 186+.

VI. Claim 51, drawn to a particle production system, classified in class 250, subclass 336.1+.

3. The inventions are distinct, each from the other because of the following reasons:

- o Inventions of Group I and each of Groups II-VI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different effects.

- o Inventions of Group II and each of Groups III-VI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or

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different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different effects.

- o Inventions of Group III and each of Groups IV-VI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different effects.

- o Inventions of Group IV and each of Groups V-VI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different effects.

- o Inventions of Groups V and VI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP

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§ 806.04, MPEP § 808.01). In the instant case the different inventions have different effects.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

5. A telephone call was made to Attorney Peter Dardi on 11/14/00 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one

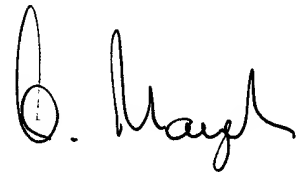
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or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kishor Mayekar whose telephone number is (703) 308-0477. The examiner can normally be reached on Monday-Thursday from 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathryn Gorgos, can be reached on (703) 308-3328. The fax phone number for this Group is (703) 305-3599.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.



Kishor Mayekar
Primary Examiner
Group 1700

KM
January 25, 2001